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A. S. NEWSLETTER

FEDERATION OF AMERICAN SCIENTISTS—Founded 1946—
A national organization of natural and social scientists and
engineers concerned with problems of science and society.

SPECIAL ISSUE ON
COMPLETE TEST BAN

24, No. 10
ary, 1972

Marvin L. Goldberger, Chairman
S. E. Luria, Vice Chairman

FAS CALLS FOR TOTAL TEST BAN WITHOUT ON-SITE INSPECTION

(Background Material on Pages 3-6)

We believe that the United States should now seek to negotiate a treaty banning all underground nuclear tests without requiring any on-site inspection. The risks are minimal and the gains could be very substantial.

Given recent improvements in seismology and other means of detection, we believe that the United States would detect Soviet violation of a test ban treaty long before the Soviets could carry out enough tests to score a breakthrough that would threaten the stability of the nuclear balance. Indeed, we are aware of no persuasive argument explaining how even unrestricted Soviet testing below the level easily detected by seismic means could threaten the balance. Moreover, the Soviet leaders could not be given any confidence by Soviet scientists that even a single violation would go undetected.

Without any on-site inspections, clandestine cheating is far less plausible now than it would have been in 1963 with on-site inspections when President Kennedy urged such a treaty. Indeed, we believe on-site inspection would be of only marginal significance, amongst other present methods, in monitoring Soviet test activity. We urge greater declassification of non-seismological methods (and seismological ones also) to permit the public a better appraisal of our ability to monitor a ban.

Much of the opposition to the Test Ban Treaty in the United States does not arise from fear of Soviet cheating. It springs from the desire to continue Amer-

ican nuclear testing in order to develop new weapons, to retest existing weapons and to keep our laboratories vigorous.

We see no need to develop new weapons to maintain the reliability of the American deterrent. A SALT agreement banning ABMs, or restricting them to low levels, would eliminate the need for much planned additional testing to develop improved MIRV and ABM warheads. But even without a SALT agreement, existing warheads would be sufficient. The vigor of the weapons laboratory is not an end in itself. And we can design around any uncertainty which may be created in the future by our inability to test old or modified designs.

There are a variety of means, all consistent with American interests, of dealing with peaceful explosions; our goal should be to find the means which have the greatest international support.

The positive advantages of a Test Ban Treaty are obvious and need not be labored. The treaty could slow down the strategic arms race indirectly. It would greatly reinforce the nonproliferation treaty and decrease the probability that additional nations would seek to develop nuclear weapons. It would eliminate the ecological dangers of further testing. It would inhibit the development of cheaper weapons whose technology might spread to other nations. Finally, it would contribute to an environment in which further steps leading to nuclear disarmament would be possible.

Ad Hoc Committee on Test Ban*

Morton H. Halperin, Chairman
Herbert F. York
Marvin L. Goldberger

Herbert Scoville, Jr.
Franklin A. Long
Adrian Fisher

George B. Kistiakowsky
George W. Rathjens

"FIRST USE" OF NUCLEAR WEAPONS WITHOUT CONGRESSIONAL AUTHORIZATION

On December 9, an FAS press conference urged the Congress to limit the President's authority to order American Armed Forces to escalate conventional hostilities into nuclear war through an American first-use of nuclear weapons. It proposed that Congressional authorization be required for any American first-use and it noted that time would be available. Although it does not oppose a policy of nuclear deterrence, the Federation of American Scientists has long been on record as opposing any first-use of nuclear weapons at all. FAS made this proposal, in the context of Congressional interest in "war powers" legisla-

tion, in order to appeal to a broader class of persons who may oppose "no-first-use" policies but still support the notion that power to use nuclear weapons first should not be vested in any one man.

In addition to its executive committee the FAS proposal for an amendment to any "war powers" act that Congress might consider was specifically drafted, endorsed and approved by the following Federation members with long and deep experience with these same issues:*

Marvin L. Goldberger, Herbert Scoville, Jr., Herbert F. York, George W. Rathjens, Morton H. Halperin, Leslie H. Gelb, Eugene Skolnikoff, Richard H. Ullman, Adrian Fisher. (See page 2 for text.)

*See page 8 for the credentials of these specialists.

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SPECIAL ISSUE ON THE
LEGISLATIVE RIGHT TO KNOW

Vol. 28, No. 3

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TO FACILITATE CONGRESSIONAL TESTIMONY FAS PROPOSES SECOND "HAT" FOR HENRY KISSINGER

We do not question the right of the President to assert Executive Privilege over confidential communications between himself and his immediate counselors such as Cabinet Members and his immediate aides in the Office of the White House (White House Staff). Recent Administrations have suggested, however, that members of the White House Staff ought to be immune from Congressional inquiry of any kind. The implicit justification for this sweeping immunity is that these persons do nothing else but engage in confidential communications with the President. We note, for the record, that we do not believe that immunity from Congressional inquiry ought to be provided to "individuals" or to "job designations" but

only to privileged information. Thus, for example, even persons who do nothing else but provide confidential advice to the President ought to be willing to testify on matters in which they were involved before they took up their present responsibilities. (Thus Averell Harriman, the first "Assistant to the President," provided the Congressional investigation of General MacArthur's dismissal with such testimony based on prior knowledge.)

While White House Staff members have sometimes been considered altogether immune from Congressional inquiry, the right of Congress to call other Executive Branch witnesses has not been challenged.

(Continued on Page 2)

Approved by the Federation Executive Committee, the above proposal was reviewed and endorsed by the following FAS members or consultants whose experience and expertise bear on various aspects of this problem. (Their credentials appear on page 3.)

Raoul Berger
Alton Frye

Arthur S. Miller
Bernard Schwartz

Eugene Skolnikoff
Lee C. White

THE LEGISLATIVE RIGHT TO KNOW

Increasingly, the power of the Executive Branch is unconstrained. Thirty years of world crisis have provided the Executive with the popular support required to usurp powers of the legislative branch. And the individual legislators themselves have not been last in their willingness to let the Constitutional authority of the legislature slip away. In the control of foreign policy generally; in the war powers in particular; and in rights to information especially; Congress has steadily lost ground. The Executive Branch has made ever more comprehensive claims to authority.

The seriousness of this problem, indeed the existence of it, is too little understood — for many reasons. The legislative branch trains far fewer persons in the perspective of its institution than does the Executive Branch. Whole generations of American officialdom function for years in the unchallenged belief that their function is, and ought to be, simply facilitating the exercise of Presidential power — and hence, necessarily, blunting, circumventing, and placating the power of the legislature.

Nor is the secular loss of legislative power an isolated American phenomenon. Parliaments throughout the world

are losing power to their executive counterparts. The advantages of monolithic structure; the power to be won by operational authority; and the ever greater staff needed to cope with the complexities of modern problems — all give the Executive a great and lasting advantage.

But these indications that the problem has permanent features only highlight coming dangers. How long would American freedoms last after the three branches of government ceased to be an effective check upon each other? Both theory, and recent experience, reveal all too clearly how little confidence ought to be placed in the unchallenged common sense of a future chief executive.

Today, many Federation natural and social scientists whose experience has been in the orbit of the Executive Branch have become aware of the critical role of the Legislative Branch. As scientists and scholars, they are conscious also of its fundamental need for information.

This newsletter touches upon four questions involving the legislature's right to know: (1) the obligation of Executive officials to testify; (2) Executive Branch use of Executive Privilege to deny requested information; (3) Executive Branch use of information to lobby the Congress; and (4) selective declassification. □

FAS CALLS ATTENTION TO SOVIET RESTRICTIONS ON SCIENTIFIC EXCHANGE (Page 6)